

Internal Revenue Service

Number: **202017008**

Release Date: 4/24/2020

Index Number: 7704.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B03

PLR-117194-19

Date:

January 17, 2020

LEGEND

X =

State =

Dear :

This letter responds to a letter dated June 3, 2019, and subsequent correspondence, submitted by X's authorized representative requesting certain rulings under § 7704 of the Internal Revenue Code on behalf of X.

FACTS

X is a limited liability company formed under the laws of State. According to the submission, X will provide a venue for the buying and selling of limited partnership interests through a Platform that is intended to satisfy the requirements under § 1.7704-1(g) of the Income Tax Regulations to be a qualified matching service.

X represents that the Platform is not: (i) a national securities exchange registered under Section 6 of the 1934 Act; (ii) a national securities exchange exempt from registration under Section 6 of the 1934 Act because of the limited volume of transactions; (iii) a foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the 1934 Act; (iv) a regional or local exchange; or (v) an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

Description of the Platform

The Platform will be a web-based trading platform. Prospective buyers and sellers with respect to limited partnership interests will be required to complete an account application. If the account is approved, the subscriber will be required to execute a Subscriber Agreement which defines the relationship between X and the subscriber. The subscriber will then be given access to the trading platform via a password-protected software application or website operated by X. Subscribers that have been qualified to view listed interests will have access to a list of interests for which sellers are seeking bids.

The Platform will operate as follows. A seller of partnership interests will be able to list those interests for sale on the Platform. Upon initial listing, a non-firm price quote indicating the price at which the selling partner is willing to sell the partnership interest may be displayed to potential buyers. The listing will also show information about the limited partnership interests for sale. In addition to displaying general information, X may provide, upon request, prior pricing information, prior sale pricing, a description of the partnership's business, and financial and reporting information.

During the first 15 calendar days following the initial listing of a limited partnership interest, potential buyers will be able to view the listing and post an indication that they are interested in purchasing the interest, either with or without indicating the exact price. The seller, during this 15-day window, will be able to view buyers' non-binding indications of interest but may not enter into a contract to sell. At the end of the 15-day period, if any non-binding indications of interest have been received, the highest bid that has been received will become binding, providing that the highest bid is equal to or greater than the minimum non-firm ask price initially posted by the seller. However, if the minimum asking price is not met the seller will be able to contact any party that indicated an interest during the 15-day window to negotiate a price. No sale may be closed prior to 45 days after the initial listing date.

If a buyer and seller are matched through this process, X will provide a purchase agreement and an assignment so that the parties may complete the transfer of the limited partnership interests. If the purchase and sale agreement is finalized by the parties, X, if requested by the parties, will contact the general partner of the partnership to obtain its consent to the transfer. If no matching buyer has been found for a listed interest within 120 days after the initial posting, the posting will be removed from the Platform and cannot be listed again for at least 60 calendar days.

X makes the following factual representations:

- 1) The Platform will consist of computerized or printed listing system that lists customers' bids and/or ask quotes in order to match partners who want to sell

their interests in a partnership (the selling partner) with persons who want to buy those interests;

- 2) Matching will occur either by matching the list of interested buyers with the list of interested sellers or through a bid and ask process that allows interested buyers to bid on the listed interest;
- 3) The selling partner will not be able to enter into a binding agreement to sell the interest until the 15th calendar day after the date information regarding the offering of the partnership interest for sale is made available to potential buyers and such time period will be evidenced by contemporaneous records ordinarily maintained by the taxpayer at a central location;
- 4) The closing of the sale effected by virtue of the Platform will not occur prior to the 45th calendar day after the date information regarding the offering of the partnership interest for sale is made available to potential buyers and such time period will be evidenced by contemporaneous records ordinarily maintained by X at a central location;
- 5) The Platform will display only quotes that do not commit any person to buy or sell a partnership interest at the quoted price (non-firm price quotes) or quotes that express interest in a partnership interest without an accompanying price (nonbinding indications of interest) and will not display quotes at which any person is committed to buy or sell a partnership interest at the quoted price (firm quotes);
- 6) The selling partner's information will be removed from the Platform within 120 calendar days after the date information regarding the offering of the partnership interest for sale is made available to potential buyers and, following any removal (other than removal by reason of a sale of any part of such interest) of the selling partner's information from the Platform, no offer to sell an interest in the partnership will be entered into the Platform by the selling partner for at least 60 days; and
- 7) The general partners of each partnership in which interests are sold over the Platform will be notified by X of the sale, and the general partners will be responsible for ensuring that those transactions executed through the Platform do not, when combined with any other transactions through the Platform or other venues, add up to greater than ten percent of the total interests in the partnership.

LAW

Section 7704(a) provides that a publicly traded partnership shall be treated as a corporation.

Section 7704(b) provides that for purposes of § 7704, the term “publicly traded partnership” means any partnership if — (1) interests in such partnership are traded on an established securities market, or (2) interests in such partnerships are readily tradable on a secondary market (or the substantial equivalent thereof).

Section 1.7704-1(b) provides that for purposes of § 7704(b) and § 1.7704-1, an established securities market includes — (1) A national securities exchange registered under section 6 of the '34 Act; (2) A national securities exchange exempt from registration under section 6 of the '34 Act because of the limited volume of transactions; (3) A foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the '34 Act; (4) A regional or local exchange; (5) An interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

Section 1.7704-1(c)(1) provides that for purposes of § 7704(b) and § 1.7704-1, interests in a partnership that are not traded on an established securities market (within the meaning of § 7704(b) and § 1.7704-1(b)) are readily tradable on a secondary market or the substantial equivalent thereof if, taking into account all of the facts and circumstances, the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market.

Section 1.7704-1(g)(1) provides that for purposes of § 7704(b) and § 1.7704-1, the transfer of an interest in a partnership through a qualified matching service is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

Section 1.7704-1(g)(2) provides that a matching service is a qualified matching service only if — (i) The matching service consists of a computerized or printed listing system that lists customers' bid and/or ask quotes in order to match partners who want to sell their interests in a partnership (the selling partner) with persons who want to buy those interests; (ii) Matching occurs either by matching the list of interested buyers with the list of interested sellers or through a bid and ask process that allows interested buyers to bid on the listed interest; (iii) The selling partner cannot enter into a binding agreement to sell the interest until the 15th calendar day after the date information regarding the offering of the interest for sale is made available to potential buyers and such time period is evidenced by contemporaneous records ordinarily maintained by the operator at a central location; (iv) The closing of the sale effected by virtue of the matching service does not occur prior to the 45th calendar day after the date information regarding the offering of the interest for sale is made available to potential buyers and such time period is evidenced by contemporaneous records ordinarily maintained by the operator at a central location; (v) The matching service displays only quotes that do not commit any person to buy or sell a partnership interest at the quoted price (nonfirm price quotes) or quotes that express interest in a partnership interest without an accompanying price (nonbinding indications of interest) and does not display quotes at which any person is committed to buy or sell a partnership interest at the quoted price (firm quotes); (vi) The selling partner's information is removed from the matching service within 120 calendar days after the date information regarding the offering of the interest

for sale is made available to potential buyers and, following any removal (other than removal by reason of a sale of any part of such interest) of the selling partner's information from the matching service, no offer to sell an interest in the partnership is entered into the matching service by the selling partner for at least 60 calendar days; and (vii) The sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in § 1.7704-1(e)) does not exceed 10 percent of the total interests in partnership capital or profits.

Section 1.7704-1(g)(3) provides that for purposes of § 1.7704-1(g)(2)(iv), the closing of a sale occurs no later than the earlier of – (i) The passage of title to the partnership interest; (ii) The payment of the purchase price (which does not include the delivery of funds to the operator of the matching service or other closing agent to hold on behalf of the seller pending closing); or (iii) The date, if any, that the operator of the matching service (or any person related to the operator within the meaning of § 267(b) or § 707(b)(1)) loans, advances, or otherwise arranges for funds to be available to the seller in anticipation of the payment of the purchase price.

Section 1.7704-1(g)(4) provides, in part, that a qualified matching service may offer the following features — (i) The matching service may provide prior pricing information, including information regarding resales of interests and actual prices paid for interests; a description of the business of the partnership; financial and reporting information from the partnership's financial statements and reports; and information regarding material events involving the partnership, including special distributions, capital distributions, and refinancings or sales of significant portions of partnership assets; (ii) The operator may assist with the transfer documentation necessary to transfer the partnership interest; (iii) The operator may receive and deliver funds for completed transactions; and (iv) The operator's fee may consist of a flat fee for use of the service, a fee or commission based on completed transactions, or any combination thereof.

CONCLUSIONS

Based solely on the submitted facts and representations, we rule as follows:

- 1) The Platform is not an established securities market under § 1.7704-1(b) for purposes of § 7704.
- 2) The Platform meets the requirements to be a qualified matching service under § 1.7704-1(g).
- 3) A partnership whose interests are posted or offered for purchase or sale on the Platform will not be considered to be publicly traded solely by reason of being offered for purchase or sale and/or sold through the Platform and may rely on this ruling provided (a) it is not revoked, (b) that the sum of the partnership interests transferred during the taxable year of the partnership (other than through private transfers

described in § 1.7704-1(e)) does not exceed 10 percent of the total interests in partnership capital or profits determined as provided in § 1.7704-1(k), and (c) the Platform continues to operate in a manner consistent with the facts as represented. Maintenance of information required to permit a partnership to make the calculations, and the actual making of the calculations, relating to qualification for any applicable safe harbor in § 1.7704-1 will be the sole responsibility of the partnerships whose interests are traded and not the responsibility of X.

Except as specifically ruled upon above, we express or imply no opinion concerning the federal tax consequences of this transaction under any other provisions of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Caroline E. Hay
Senior Counsel, Branch 1
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes